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| 10/574,090      | 03/30/2007  | Lino Dreyer          | HWR-0183US          | 8930             |

21302 7590 08/10/2009  
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| EXAMINER |
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WRIGHT, MADISON L

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| ART UNIT | PAPER NUMBER |
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3781

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08/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/574,090 | <b>Applicant(s)</b><br>DREYER ET AL. |  |
|                              | <b>Examiner</b><br>Madison L. Wright | <b>Art Unit</b><br>3781              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/28/2006, 06/07/2006</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **a sealing arrangement 140** and **the neck finish 175** mentioned in the first paragraph on page 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sealing strip is adapted to seal on the inner surface of the neck finish must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because the sentence that begins on line 4 is not grammatically correct. The Examiner would suggest that if the word “in” on line 5 was changed to the word “to” and if the word “to” on line 6 was changed to the word “the” the sentence would be grammatically correct. Correction is required. See MPEP § 608.01(b).

4. Claim 1 is objected to because of the following informalities: In lines 2-3 of claim 1 the phrase “a sealing strip depending from the top plate” is repeated and the first instance of this phrase should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1, 3, 4, 5, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitations "the periphery", "the strength", and "the friction" in lines 2, 6, and 8 of claim 1. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 3 recites the limitation "the free end" in the second line of claim 3. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 4 recites the limitation "the outer surface" in the second line of claim 4. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 5 recites the limitation "the inner surface" in the second line of claim 5. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 7 recites the limitation "the inner surface" in the second line of claim 7. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

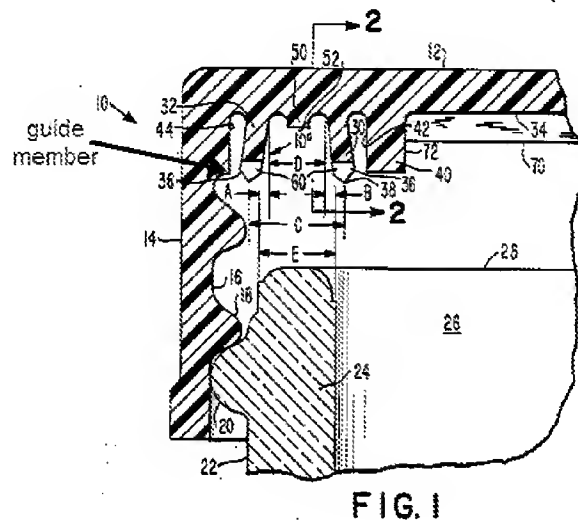
12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,560,077 to Dutt ("Dutt").

This figure, now referred to as annotated Fig. 1, used for the rejection of claims 1-14 has been replicated below, and the Examiner has added reference points for ease of explanation, and said reference points will be used for the rejection of claims 1-14 below.



As to claim 1, Dutt teaches a plastics closure (closure cap 10) for a container, the closure comprising a top plate (top 12), a side skirt (side wall 14) depending from the periphery of the top plate (Fig. 1), a sealing strip (outer sealing flange 32) depending from the top plate, a sealing strip depending from the top plate and adapted to sealingly engage the side of a container neck finish (container neck 24), and an abutment member (outer seal flange abutment surface 44) including a projecting guide member (guide member, annotated Fig. 1) for guiding the sealing strip towards the neck finish as the closure is applied, so that the strength of the seal is increased, wherein the guide member contacts the sealing strip over a relatively small area so that the friction between the

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sealing strip and the abutment member is minimized and wherein the sealing strip is inclined radially towards the neck finish for improving the sealing effect (Fig. 1).

As to claim 2, Dutt teaches a closure according to claim 1, wherein the sealing strip tapers slightly away from the top plate (col. 4, lines 67-68).

As to claim 3, Dutt teaches a closure according to claim 1, wherein the surface of the free end (free end 36) of the sealing strip tapers sharply (Fig. 1).

As to claim 4, Dutt teaches a closure according to claim 1, wherein the sealing strip is adapted to seal on the outer surface of the neck finish (Fig. 3).

As to claim 5, Dutt teaches a closure according to claim 4, wherein the closure further comprises a plug seal (inner sealing flange 30) adapted to seal on the inner surface of the neck finish (Fig. 3).

As to claim 6, Dutt teaches a closure according to claim 5, wherein the plug seal is adapted to exert an outward force on the neck finish for causing the neck finish to move outwards, thereby increasing the strength of the seal from the sealing strip (col. 6, lines 56-60).

As to claim 7, Dutt teaches a closure claim 1, wherein the sealing strip (inner sealing flange 30) is adapted to seal on the inner surface of the neck finish (Fig. 3).

As to claim 8, Dutt teaches a container with a neck finish in combination with a closure according to claim 1 (Fig. 3).

As to claim 9, Dutt teaches a container with a neck finish in combination with a closure according to claim 2 (Fig. 3).

As to claim 10, Dutt teaches a container with a neck finish in combination with a closure according to claim 3 (Fig. 3).

As to claim 11, Dutt teaches a container with a neck finish in combination with a closure according to claim 4 (Fig. 3).

As to claim 12, Dutt teaches a container with a neck finish in combination with a closure according to claim 5 (Fig. 3).

As to claim 13, Dutt teaches a container with a neck finish in combination with a closure according to claim 6 (Fig. 3).

As to claim 14, Dutt teaches a container with a neck finish in combination with a closure according to claim 7 (Fig. 3).

### ***Conclusion***

14. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments



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made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. PGPUB 2006/0138071 A1 to Tsutsumi et al. discloses a cap with a sealing ring that abuts a wall section to increase the rigidity of the connecting section.
- U.S. PGPUB 2005/0247663 A1 to Gassner discloses a cap with two annular sealing webs that contact the inside and outside of the container neck to seal the container.
- U.S. Patent No. 5,320,236 to Gregory discloses a plastic linerless sealing closure system.
- U.S. Patent No. 5,275,287 to Thompson discloses a closure where the sealing strip contacts the inside of the container neck.
- U.S. Patent No. 4,489,845 to Aichinger et al. discloses a container closure with a plug that seals the inside of the container neck.
- U.S. Patent No. 3,286,866 to McIntosh discloses a plastic cap that has a bead that abuts a sleeve in a small area.
- U.S. Patent No. 3,255,907 to Eddy discloses a linerless screw closure for containers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madison L. Wright whose telephone number is 571-270-7427. The examiner can normally be reached on Monday thru Friday, 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

/M. L. W./  
Examiner, Art Unit 3781